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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,048	08/26/2003	Timothy Baker	0212.67615	3223

24978 7590 11/03/2006

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EXAMINER

CHOI, STEPHEN

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/03/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/648,048
Filing Date: August 26, 2003
Appellant(s): BAKER, TIMOTHY

MAILED
NOV 03 2006
Group 3700

Roger D. Greer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 11, 2006 appealing from the Office action mailed February 6, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

GROUND OF REJECTION NOT ON REVIEW

The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief.

Claims 6-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Rubly (US 2,607,092), Maier (US 2,900,856), Dukess (US 4,334,522), Anderson (US 5,982,059), Koprass (US 6,048,260), and Wu (US 6,481,130).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2,900,856	MAIER	8-1959
5,982,059	ANDERSON	11-1999
6,048,260	KOPRAS	4-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maier (US 2,900,856) in view of Anderson (US 5,982,059).

Maier discloses the invention substantially as claimed except for a magnet, an electrical circuit including at least one light producing device, and a lens. Anderson teaches a magnet (32) mounted on a rotatable shaft, an electric circuit (52) including at least one light producing device (54), and a lens (col. 5, line 35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a lighting assembly as taught by Anderson on the device of Maier in order to provide light onto a work without a separate external source of energy. Regarding claim 2, col. 5, lines 14-16 of Anderson. Regarding claim 3, col. 4, line 11-col. 5, line 12 of Anderson. Regarding claim 8, the element 26 of Anderson is C-shaped. Regarding claim 9, a distal end of 13 of Maier is capable of receiving a saw guard. Regarding claim 10, at 40 of Maier.

Claims 1-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopras (US 6,048,260) in view of Anderson.

Kopras discloses the invention substantially as claimed except for a magnet, an electrical circuit including at least one light producing device, and a lens. Anderson teaches a magnet (32) mounted on a rotatable shaft, an electric circuit (52) including at least one light producing device (54), and a lens (col. 5, line 35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a lighting assembly as taught by Anderson on the device of Kopras in order to provide light onto a work without a separate external source of energy. Regarding claim 2, col. 5, lines 14-16 of Anderson. Regarding claims 3 and 12, col. 4, line 11-col. 5, line 12 of Anderson. Regarding claim 8, the element 26 of Anderson is C-shaped.

(10) Response to Argument

Appellant contends that combinations of Maier modified by Anderson or Kopras modified by Anderson are based upon improper hindsight reconstruction. Appellant further contends that there is no motivation for the combinations.

The court has held that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The court has also held that the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Anderson clearly teaches that providing a generator and lighting assembly for use with a power driven tool is well known knowledge within the level of ordinary skill at the time the claimed invention was made. Furthermore, applicant's background of the invention clearly admits that such knowledge was well known within the level of ordinary skill at the time the claimed invention was made. Thus, the examiner's reconstruction is not based knowledge gleaned only from the applicant's disclosure but rather knowledge that was well known within the level of ordinary skill at the time the claimed invention was made. Furthermore, Anderson recognizes advantages of providing a lighting assembly powered by mechanical movement of the tool without a separate external source of energy and provides motivation to employ such a lighting assembly on a power tool such as a tool taught by Maier or Kopras.

Furthermore, appellant argues that Maier teaches a tool rather than an attachment for a tool as claimed.

The examiner respectfully disagrees. Maier teaches a structure that is attached to a motor driven assembly (e.g., 37). Thus, it is clearly an attachment as claimed.

Appellant also appears to believe the examiner's rejection is stating that "a face plate" in Anderson is referred to as "lens".

The examiner respectfully directs appellant's attention to Col. 5, lines 34-35 where Anderson teaches "a retainer 62 for securing the face plate and lens in place".

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Anderson clearly states that "a face plate" is not "lens" rather they are separate elements of the device.

Moreover, appellant appears to argue on the rejections of dependent claims (e.g., claim 6) based upon a number of references (e.g., Wu). However, such arguments are irrelevant to grounds of rejection to be reviewed on appeal. They are not under review on appeal because they have not been presented for review in the appellant's brief.


(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

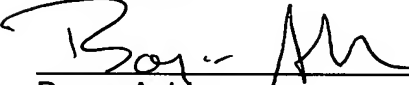
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

sc


STEPHEN CHOI
PRIMARY EXAMINER

Conferees:


Boyer Ashley


David Bryant